IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

MFA.No. 32 of 2000()

OPMV.1261/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, MUVATTUPUZHA
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APPELLANT/PETITIONER:

YAKKOB,S/O.PAULOSE,AGED 28 YEARS,
VALLIKALIL HOUSE, KEEZHUMURI POST,
RAMAMANGALAM VILLAGE, MUVATTUPUZHA.

BY ADV. SRI.P.V.SANTHOSH JOSE
SRI.FRANCIS MATHEW

RESPONDENTS/RESPONDENTS:

1.THE MANAGING DIRECTOR,
KERALA STATE ROAD TRANSPORT CORPORATION,
THIRUVANANTHAPURAM, KERALA (OWNER OF THE BUS).

2.ANTONY,S/O.VAREEDUKUTTY, KANAKKASSERY,EDAVANAKKADU,
ERNAKULAM DISTRICT, KERALA, (DRIVER OF THE BUS).

BY ADV. SRI.K.PRABHAKARAN, SC, K.S.R.T.C.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 27/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

M.F.A.NO.32 OF 2000 (A)

Dated 27th July, 2007

JUDGMENT

Koshy, J.

Appellant claimant met with an accident by which he suffered serious injuries on 1.12.1995. He was travelling in the bus owned by the 1st respondent and tribunal found that accident occurred due to the negligence of the 2nd respondent driver of the above bus. He suffered serious injuries. He claimed compensation of Rs.5,00,000/-. But tribunal granted only Rs.1,30,000/-. Only quantum of compensation is disputed in this appeal.

2. Ext.A7 certificate shows the following injuries:

> "History: Road traffic accident travelling on foot board of a bus, hit against a post. Penetrating injury flank, swelling and bleeding from the site, skin abrasions chest and abdomen.
>
> Shocked state BP 76 - 80 mmHg systolic. Haematuria
>
> Prov. Diag: "Left renal injury and retropritoneal haematoma". Xray # pelvis,

> communicated # left iliac crest, left horizontal ramus of pubis, left ischio pubic ramus, ? Hari line crack acetabulum. After resuscitation, laparotomy. Massive retro peritoneal haematoma extending from pelvis to the kidney. Kidney only bruisted. Haematoma partly evacuated and haemostasis secured. Intra & post op – haemaccel, plasma and 10 units of blood given, antibiotics and other supportive line of management. During post op. Period – severe quadriceps waisting. Orthopaedic consultation Dr.Mammen, Physiotherapy.
>
> FINAL DIAG" MASSIVE RETROPERITONEAL HAEMATOMA, # PELVIS, BRUISING LEFT KIDNEY

Ext.A8 is the disability certificate which shows that following injuries:

> "The Yacob who was treated here in 1996 for multiple injuries following RTA (his chest summary given) was received today. He has gross waisting of (1) quadriceps muscle due to injury of (a) femoral nerve which makes it difficult for him to climb stairs and results in frequent falls. I am of the opinion that this disability is of permanent in nature."

But the percentage of disability was not certified. In the absence of disability certificate, tribunal assessed 10% permanent disability and calculated compensation as Rs.32,400/- taking 18 as the

multiplier and Rs.1,500/- is the monthly income. No evidence regarding monthly income was adduced. We see no ground to interfere in the above. Considering the serious nature of injuries, Rs.20,000/- was granted and for pain and sufferings and another Rs.10,000/- for loss of amenities, discomfort etc. It is contended that even though medical bills for Rs.50,641/- was produced, tribunal awarded only Rs.50,600/-. It is further contended that he was treated in the private hospital and there will be many expenses which are not covered by actual medical bills. In the above circumstances, we award Rs.5,000/- more towards medical expenses and future medical expenses. No further enhancement is granted. In the above circumstances, additional compensation of Rs.5,000/- should be deposited by the first respondent with 8% interest from the date of application till deposit. With the above observations this appeal is partly allowed.

J.B.KOSHY, JUDGE

T.R.RAMACHANDRAN NAIR, JUDGE

prp

J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

M.F.A.NO.32 OF 2000 (A)

JUDGMENT

Dated 27th July, 2007